
HOUSE BILL No. 1026

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-21-6; IC 34-55-10-2.

Synopsis: Earned income tax credit rate increase. Increases the amount of the Indiana earned income tax credit from 9% to 10% of the federal earned income tax credit. Provides that a debtor's Indiana earned income tax credit is property that is exempt under the bankruptcy property exemption statute. (Current law provides only that a debtor's federal earned income tax credit is exempt property.)

Effective: July 1, 2009; January 1, 2010.

Day, Murphy

January 7, 2009, read first time and referred to Committee on Ways and Means.

C
o
p
y



Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1026

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-3.1-21-6, AS AMENDED BY P.L.131-2008,
2 SECTION 17, AND AS AMENDED BY P.L.146-2008, SECTION
3 325, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JANUARY 1, 2010]: Sec. 6. (a) *Except as provided by*
5 *subsection (b)*, an individual who is eligible for an earned income tax
6 credit under Section 32 of the Internal Revenue Code is eligible for a
7 credit under this chapter equal to *six percent (6%) nine percent (9%)*
8 **ten percent (10%)** of the amount of the federal earned income tax
9 credit that the individual:
10 (1) is eligible to receive in the taxable year; and
11 (2) claimed for the taxable year;
12 under Section 32 of the Internal Revenue Code.
13 (b) *In the case of a nonresident taxpayer or a resident taxpayer*
14 *residing in Indiana for a period of less than the taxpayer's entire*
15 *taxable year, the amount of the credit is equal to the product of:*
16 (1) *the amount determined under subsection (a); multiplied by*
17 (2) *the quotient of the taxpayer's income taxable in Indiana*



C
o
p
y

divided by the taxpayer's total income.

~~(b)~~ (c) If the credit amount exceeds the taxpayer's adjusted gross income tax liability for the taxable year, the excess, less any advance payments of the credit made by the taxpayer's employer under IC 6-3-4-8 that reduce the excess, shall be refunded to the taxpayer.

SECTION 2. IC 34-55-10-2, AS AMENDED BY P.L.145-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) This section does not apply to judgments obtained before October 1, 1977.

(b) The amount of each exemption under subsection (c) applies until a rule is adopted by the department of financial institutions under section 2.5 of this chapter.

(c) The following property of a debtor domiciled in Indiana is exempt:

(1) Real estate or personal property constituting the personal or family residence of the debtor or a dependent of the debtor, or estates or rights in that real estate or personal property, of not more than fifteen thousand dollars (\$15,000). The exemption under this subdivision is individually available to joint debtors concerning property held by them as tenants by the entireties.

(2) Other real estate or tangible personal property of eight thousand dollars (\$8,000).

(3) Intangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of three hundred dollars (\$300).

(4) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(5) Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are

C
o
p
y



- 1 not subject to federal income taxation at the time of the levy;
 2 and
 3 (C) roll-overs of contributions made under clause (A) that are
 4 not subject to federal income taxation at the time of the levy.
 5 (7) Money that is in a medical care savings account established
 6 under IC 6-8-11.
 7 (8) Money that is in a health savings account established under
 8 Section 223 of the Internal Revenue Code of 1986.
 9 (9) Any interest the debtor has in a qualified tuition program, as
 10 defined in Section 529(b) of the Internal Revenue Code of 1986,
 11 but only to the extent funds in the program are not attributable to:
 12 (A) excess contributions, as described in Section 529(b)(6) of
 13 the Internal Revenue Code of 1986, and earnings on the excess
 14 contributions;
 15 (B) contributions made by the debtor within one (1) year
 16 before the date of the levy or the date a bankruptcy petition is
 17 filed by or against the debtor, and earnings on the
 18 contributions; or
 19 (C) the excess over five thousand dollars (\$5,000) of aggregate
 20 contributions made by the debtor for all programs under this
 21 subdivision and education savings accounts under subdivision
 22 (10) having the same designated beneficiary:
 23 (i) not later than one (1) year before; and
 24 (ii) not earlier than two (2) years before;
 25 the date of the levy or the date a bankruptcy petition is filed by
 26 or against the debtor, and earnings on the aggregate
 27 contributions.
 28 (10) Any interest the debtor has in an education savings account,
 29 as defined in Section 530(b) of the Internal Revenue Code of
 30 1986, but only to the extent funds in the account are not
 31 attributable to:
 32 (A) excess contributions, as described in Section 4973(e) of
 33 the Internal Revenue Code of 1986, and earnings on the excess
 34 contributions;
 35 (B) contributions made by the debtor within one (1) year
 36 before the date of the levy or the date a bankruptcy petition is
 37 filed by or against the debtor, and earnings on the
 38 contributions; or
 39 (C) the excess over five thousand dollars (\$5,000) of aggregate
 40 contributions made by the debtor for all accounts under this
 41 subdivision and qualified tuition programs under subdivision
 42 (9) having the same designated beneficiary:

C
o
p
y



1 (i) not later than one (1) year before; and
 2 (ii) not earlier than two (2) years before;
 3 the date of the levy or the date a bankruptcy petition is filed by
 4 or against the debtor, and earnings on the excess contributions.
 5 (11) The debtor's interest in a refund or a credit received or to be
 6 received under **the following:**
 7 (A) Section 32 of the Internal Revenue Code of 1986 **(the**
 8 **federal earned income tax credit).**
 9 (B) **IC 6-3.1-21-6 (the Indiana earned income tax credit).**
 10 (d) A bankruptcy proceeding that results in the ownership by the
 11 bankruptcy estate of a debtor's interest in property held in a tenancy by
 12 the entirety does not result in a severance of the tenancy by the
 13 entirety.
 14 (e) Real estate or personal property upon which a debtor has
 15 voluntarily granted a lien is not, to the extent of the balance due on the
 16 debt secured by the lien:
 17 (1) subject to this chapter; or
 18 (2) exempt from levy or sale on execution or any other final
 19 process from a court.
 20 SECTION 3. [EFFECTIVE JANUARY 1, 2010] **IC 6-3.1-21-6, as**
 21 **amended by this act, applies only to taxable years beginning after**
 22 **December 31, 2009.**

C
o
p
y

